IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

WEDNESDAY, THE 13TH JUNE 2007 / 23RD JYAISHTA 1929

OP.No. 1344 of 2003(I)

PETITIONER:
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1. SIVAKUMAR C.M. S/O.MADHAVAN NAIR,
FIELD WORKERS, NFCP UNIT, KOLLAM.

2. ABDUL JALEEL S/O.AHAMEDKOYA, PEON,
PRIMARY HEALTH CENTRE, PAVITHRESWARAM,
P.O.S.N.PURAM, KOLLAM

3. SREEKALA V.S. W/O. VENUGOPALAN NAIR,
FIELD WORKER, NFCP, KOLLAM.

4. PADMAKUMAR .S. S/O. SIVADASAN PILLAI,
PEON, PRIMARY HEALTH CENTRE, PALLICKAL,
P.O.ANAYADI, PATHANAMTHITTA DISTRICT

BY ADV. SRI.V.N.RAMESAN NAMBISAN

RESPONDENTS:
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1. STATE OF KERALA,REPRESENTED BY THE
SECRETARY, DEPARTMENT OF HEALTH AND FAMILY
WELFARE , SECRETARIAT, THIRUVANANTHAPURAM.

2. DIRECTOR OF HEALTH SERVICES,
THIRUVANANTHAPURAM

3. DISTRICT MEDICAL OFFICER, KOLLAM.

4. DISTRICT MEDICAL OFFICER,
PATHANAMTHITTA.

BY GOVT PLEADER SMT.SMITHA SUKUMAR

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 13/06/2007, ALONG WITH OP NO. 11173 OF 2003 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP NOS.2344 & 21402 OF 2003 & I.A.NO.9645 OF 2003
IN OP NO.1344 OF 2003 I

//DISMISSED//

13.06.2007. SD/- THOTTATHIL B.RADHAKRISHNAN, JUDGE.

APPENDIX

PETIITONER'S EXHIBITS:

EXT.P1: TRUE COPY OF THE ORDER NO.G.O.(MS)24/89/H&FWD DATED 23.9.89 OF THE 1ST RESPONDENT PRESCRIBING QUALIFICATIONS AND METHOD OF APPOINTMENT TO THE POST OF JUNIOR HEALTH INSPECTOR GRADE II.

EXT.P2: TRUE COPY OF THE ORDER NO.10148/02/01/H&FWD DATED 23.11.2001 ISSUED BY THE 1ST RESPONDENT PRESCRIBING THE PROCEDURE FOR APPOINTMENT AS JUNIOR HEALTH INSPECTOR GRADE II BY FOLLOWING EXT.P1.

EXT.P3: TRUE COPY OF THE FAX MESSAGE NO.EG-3-1497-01/DHS DATED 15.12.2001 ISSUED BY THE 2ND RESPONDENT INSTRUCTING ALL DISTRICT MEDICAL OFFICERS TO FURNISH THE REPORT COMPLIANCE OF DIRECTIONS IN EXT.P2.

EXT.P4: TRUE COPY OF THE JUDGMENT DATED 4.9.2002 OF THE HON'BLE COURT IN O.P.NO.4959 OF 2002.

EXT.P5: TRUE COPY OF THE ORDER NO.39001/02/2002/H&FWD DATED 10.10.2002 OF THE 1ST RESPONDENT DIRECTING THE 2ND RESPONDENT TO COMPLY WITH EXT.P5 JUDGMENT AND REPORT TO THE GOVERNMENT.

EXT.P6: TRUE COPY OF THE ORDER NO.EG-3-102206/99/DHS DATED 21.2.00 OF THE 2ND RESPONDENT APPOINTING ONLY TECHICALLY QUALIFIED DEPARTMENTAL CANDIDATES AS JUNIOR HEALTH INSPECTOR GRADE II.

EXT.P7: TRUE COPY OF THE RELEVANT PAGES OF THE S.S.L.C. BOOK OF THE 1ST PETITIONER.

EXT.P8: TRUE COPY OF THE DEGREE CERTIFICATE DATED 3.5.90 ISSUED BY THE UNIVERSITY OF KERALA TO THE 1ST PETITIONER.

EXT.P9: TRUE COPY OF THE CERTIFICATE OF SANITARY INSPECTORS' DIPLOMA ISSUED BY THE ALL INDIA INSTITUTE OF LOCAL SELF GOVERNMENT, MUMBAI.

EXT.P10: TRUE COPY OF THE REPRESENTATION DATED 9.10.2001 SUBMITTED BY THE 1ST PETITIONER BEFORE THE 2ND RESPONDENT.

EXT.P11: TRUE COPY OF THE REJECTION ORDER NO.EG-3/1497/01/DHS DT.27.3.2002 OF THE 2ND RESPONDENT REJECTING PROMOTION AS JHI GRADE II TO THE 1ST PETITIONER.

EXT.P12: TRUE COPY OF THE RELEVANT PAGES OF THE S.S.L.C. BOOK OF THE 2ND PETITIONER.

EXT.P13: TRUE COPY OF THE CERTIFICATE OF SANITARY INSPECTORS' DIPLOMA COURSE ISSUED BY ALL INDIA INSTITUTE OF LOCAL SELF GOVERNMENT, MUMBAI TO THE 2ND PETITIONER.

EXT.P14: TRUE COPY OF THE REJECTION ORDER NO.EG3-1497/01/DHS DATED 27.3.2002 REJECTING THE REQUEST OF THE 2ND PETITIONER TO BE PROMOTED AS JUNIOR HEALTH INSPECTOR GRADE II.

EXT.P15: TRUE COPY OF THE RELEVANT PAGES OF S.S.L.C. BOOK OF THE 3RD PETITIONER.

EXT.P16: TRUE COPY OF THE CERTIFICATE OF SANITARY INSPECTORS' DILOMA COURSE ISSUED BY THE ALL INDIA INSTITUTE OF LOCAL SELF GOVERNMENT, MUMBAI TO THE 3RD PETITIONER.

EXT.P17: TRUE COPY OF THE REPRESENTATION DATED 3.10.2001 SUBMITTED BY THE 3RD PETITIONER BEFORE THE 2ND RESPONDENT SEEKING PROMOTION AS JUNIOR HEALTH INSPECTOR GRADE II.

EXT.P18: TRUE COPY OF THE REJECTION ORDER NO.EG-3-1497/01/DHS DATED 27.3.2002 OF THE 2ND RESPONDENT REJECTING PROMOTION AS JUNIOR HEALTH INSPECTOR GRADE II TO THE 3RD PETITIONER.

EXT.P19: TRUE COPY OF THE RELEVANT PAGES OF THE S.S.L.C. BOOK OF THE 4TH PETITIONER.

EXT.P20: TRUE COPY OF THE CERTIFICATE OF SANITARY INSPECTORS' DIPLOMA COURSE ISSUED BY THE ALL INDIA INSTITUTE OF LOCAL SELF GOVERNMENT, MUMBAI.

EXT.P21: TRUE COPY OF THE REJECTION ORDER NO.EG-3-1497/01/DHS DATED 27.3.02 OF THE 2ND RESPONDENT REJECTING PROMOTION TO THE 4TH PETITIONER.

EXT.P22: TRUE COPY OF THE GOVERNMENT ORDER BEARING NO.G.O.(RT) NO.461/2003/H&FWD DATED 10.2.03.

EXT.P23: TRUE COPY OF ORDER NO.32681/C2/2003/H&FWD DATED 14.7.2003.

EXT.P24: TRUE COPY OF ORDER NO.EG-1497/01/DHS DATED 10.2.2003 ISSUED TO 1ST PETITIONER BY 2ND RESPONDENT.

EXT.P25: TRUE COPY OF ORDER NO.EG-1497/01/DHS DATED 10.2.2003 ISSUED TO 3RD PETITIONER BY 2ND RESPONDENT.

EXT.P26: TRUE COPY OF ORDER NO.EG-1497/01 DHS DT.10.2.2003 ISSUED TO THE 2ND PETITIOENR BY 2ND REPSONDENT.

EXT.P27: TRUE OCPY OF ORDER NO.EG-1497/01 DHS DATED 10.2.2003 ISSUED TO THE 4TH PETITIONER BY 2ND REPSONDENT.

RESPONDENT'S EXHIBITS:

EXT.R2(a): COPY OF GOVT. ORDER DATED 10.2.2003.

EXT.R2(b): COPY OF ORDER NO.EG3-1497/01/DHS DT.10.2.2003.

/TRUE COPY/

THOTTATHIL B.RADHAKRISHNAN, J.

O.P.Nos.1344 & 11173 OF 2003

Dated this the 13th day of June, 2007

JUDGMENT

With the passage of time, the questions raised in these writ petitions stand concluded by the judgment dated 5.11.2003 in O.P.No.11555/02 and connected matter, whereby, G.O.(Rt). No.461/03/H & FWD dated 10.2.2003, which was Ext.P10 in those cases, in so far as it suspended the method of appointment prescribed in G.O.(MS) No.24/89/H FWD dated 23.1.1989 by transfer/promotion alone, was quashed. It was directed as per the said judgment that any appointment made by way of direct recruitment, during the pendency of those writ petitions, shall be regularised only after considering the claims of the petitioners therein. The petitioners in these cases are similarly situated to the beneficiaries of the aforesaid judgment. It is also pointed out that the said judgment stands affirmed by the Division Bench. Under such circumstances, it goes without saying that

the petitioners are entitled to the relief sought for in these writ petitions. Accordingly, the writ petitions stand allowed.

Sd/-

THOTTATHIL B.RADHAKRISHNAN
Judge

kkb.

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THOTTATHIL B. RADHAKRISHNAN, J

O.P.NOs.1344 & 11173 OF 2003

JUDGMENT

13TH JUNE, 2007.

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